

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 896 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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GUJARAT SHEEP & WOOL

DEVELOPMENT CORPORATION LTD.

Versus

BRITISH INDIA CORPORATION LTD.

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Appearance:

MR PV HATHI for Petitioner

MR RK MISHRA for Respondent No. 1, 2

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CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 18/01/99

ORAL JUDGEMENT

RULE.

By the impugned order dated 17.6.1997, the 4th Civil Judge (SD), Jamnagar stayed the proceedings in the Civil Suit No.38/95 broadly on the following two reasons:

- (1) That as held by the Supreme Court, in the case of Oil and Natural Gas Commission vs. Collector,

Central Excise, reported in AIR 1990 SC 1017, the plaintiff, a Government department is required to obtain certificate of the Committee.

(2) In view of the provisions of section 22(1) of the Sick Industrial Companies (Special Provisions) Act, 1985, so long as BIFR proceedings are concerned the same are stayed and the suit cannot proceed.

2. I have heard the learned Advocates for the parties. So far as the first ground is concerned, in my view, the decision of the Apex Court in the case of Oil and Natural Gas Commission (supra), does not apply to the facts of the present case. The ratio in the said case is applicable in a case where the dispute is between a Public Undertaking of the Central Government and the Union of India and not between the State authorities. It is not in dispute that the plaintiff petitioner-Gujarat Sheep and Wool Development Corporation is an undertaking of the State of Gujarat. Thus, the learned Judge was in error in staying the proceedings on the first ground stated above. So far as the second ground is concerned, it is made clear that it will be open for the petitioner to apply for vacating the stay of proceedings on completion of the proceedings under the Sick Industrial Companies (Special Provisions) Act after the proceedings are over or or after appropriate permission is obtained from the Board.

3. In the result, this Revision is partly allowed as indicated above. Rule is made absolute to the aforesaid extent.

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msp.